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June 15, 2024

VIA ECF

The Honorable Peter G. Sheridan
U.S. District Court for the District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Room 2020
Trenton, NJ 08608

**Re: *ANJRPC v. Platkin*, - 3:18-cv-10507-PGS-JBD
Cheeseman v. Platkin - 1:22-cv-04360-PGS-JBD
Ellman v. Platkin - 3:22-cv-04397-PGS-JBD**

Dear Judge Sheridan:

We represent the *ANJRPC* and *Ellman* plaintiffs in the above referenced consolidated matters. The *ANJRPC* and *Ellman* plaintiffs submit this letter to bring to the court's attention a recent admission by the Attorney General of New Jersey that so-called "large capacity" ammunition magazines are "weapons" – an admission that is fundamentally devastating to Defendants' contention in these consolidated cases that the magazines at issue are not "arms" within the meaning of the Second Amendment.

As the court is aware, Defendants have invented a strange argument that ammunition magazines that feed ammunition into the chamber of a firearm are somehow not arms but are "accoutrements" no different than a mere cartridge box that is used simply to contain and transport ammunition.

We now know that even the Attorney General himself does not believe this preposterous argument. On June 4, 2024, the Attorney General issued a press release announcing his lawsuit against a Nevada company, Arms Unlimited, Inc., in which he alleges that the company "sold and shipped more than two dozen large capacity ammunition magazines ("LCMs") into New Jersey." See June 4, 2024 Press Release at: <https://www.njoag.gov/ag-platkin-division-of-consumer-affairs-announce-civil-suit-against-nevada-firearms-company-that-sold-large-capacity-magazines-into-nj-including-to-an-undercover-state-investigator/> (last visited June 15, 2024).

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Notably, in commenting on the defendant's alleged activities, the Attorney General specifically calls the magazines "weapons":

"Large capacity magazines are capable of inflicting the most lethal damage possible in the shortest period of time, and we have zero tolerance for their unlawful presence in our state," said Attorney General Platkin. "To protect our communities from the devastation of mass shootings and other gun violence, we will continue to take action against companies that market and ship these dangerous **weapons** into New Jersey in violation of our laws." [Emphasis added.]

Id. The court should take judicial notice of this Press Release pursuant to F.R.E. 201(b)(2) as the Press Release is contained on the Attorney General's own website, which, for an admission of this type, constitutes facts that "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." *Id.*

As the court is already aware, the term "arms" in the Second Amendment has been defined by the Supreme Court as "[w]eapons of offence, or armour of defence." *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008). Weapons are arms. Arms are weapons. This is indisputable.

That the Attorney General now publicly admits that the subject magazines are weapons and therefore arms protected by the Second Amendment finally puts an end to his absurd argument in his summary judgment papers before this court that they are not.

As already argued extensively in Plaintiffs' summary judgment papers, because the subject magazines are arms in common use, they are protected by the Second Amendment and cannot be banned, and the laws being challenged are unconstitutional.

Respectfully submitted,

s/ Daniel L. Schmutter
DANIEL L. SCHMUTTER

DLS/lks

cc: Daniel M. Vannella, Esq. (via ECF)
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